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Addendum to Report of the Special Rapporteur on extreme poverty and human rights, Ms. Magdalena Sepúlveda Carmona

Summary of activities of the Special Rapporteur on extreme poverty and human rights, 2008-2014*

Summary

This document presents an overview of the activities of the Special Rapporteur on extreme poverty and human rights, Magdalena Sepúlveda Carmona, during the term of her mandate 2008-2014. It summarizes the Special Rapporteur's country visits to Ecuador, Zambia, Bangladesh, Viet Nam, Ireland, Timor-Leste, Paraguay, Namibia, Mongolia, Mozambique, the Republic of Moldova and Guinea-Bissau (in chronological order). It also highlights the Special Rapporteur's thematic reports on social protection, welfare reform, penalization of poverty, access to justice, participation, unpaid care work, and the post-2015 development goals as well as her work on advocacy and in concluding the drafting process for the Guiding Principles on extreme poverty and human rights. The Special Rapporteur hopes this summary will be useful for States and civil society organizations and will also serve to inform her successor about her activities, strategic goals, approach and valued partners.

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Annex

Report of the Special Rapporteur Report of the Special Rapporteur on extreme poverty and human rights, Ms. Magdalena Sepúlveda Carmona

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I. Introduction

1. The document presents an overview of the activities of the Special Rapporteur on extreme poverty and human rights, Magdalena Sepúlveda Carmona, during the term of her mandate 2008-2014. This is an addendum to her final report to the Human Rights Council. She hopes this summary will be useful for States and civil society organizations and will also serve to inform her successor about her activities, strategic goals, approach and valued partners.

2. The Special Rapporteur is very grateful for the support provided by the staff at the Office of the United Nations High Commissioner for Human Rights (OHCHR). She would also like to thank the various States, United Nations agencies, funds and programmes, civil society organizations, grass root movements, universities and individuals that have cooperated with her over the past six years.

3. The Special Rapporteur has consulted with and worked in collaboration with various non-governmental organizations throughout her mandate, in order to seek input for her reports, collaborate on advocacy and awareness-raising measures and to promote progress and standard-setting with regards to the rights of people living in poverty. It is not possible to mention every organization by name, but she would like to particularly thank the following organizations for their unrelenting support and very valuable collaboration throughout her whole term as mandate-holder: the International Movement ATD Fourth World, the Center for Economic and Social Rights, the Center for Women's Global Leadership at Rutgers University and ESCR-Net.

4. Most of all, she would like to extend her sincere gratitude to all the people she has met with during her time as Special Rapporteur, who have shared with her their personal stories of struggling to overcome poverty, social exclusion, discrimination and disadvantage.

5. Of course, this summary cannot list every activity the Special Rapporteur undertook in six years,[1] rather, it serves to provide a broad overview of her activities, strategy and thematic foci. Similarly, while it is not possible to provide a fully comprehensive assessment of the work of the mandate in the last 6 years in this annex, it does give some select concrete examples of the various impacts of the mandate's work.

II. Country visits and reports

6. The Special Rapporteur has undertaken 12 country visits: to Ecuador (A/HRC/11/9/Add.1), Zambia (A/HRC/14/31/Add.1), Bangladesh (joint mission with the Special Rapporteur on water and sanitation, A/HRC/15/55), Viet Nam (A/HRC/17/34/Add.1), Ireland (A/HRC/17/34/Add.2), Timor-Leste (A/HRC/20/25/Add.1), Paraguay (A/HRC/20/25/Add.2), Namibia (A/HRC/23/36/Add.1), Mongolia (A/HRC/23/36/Add.2), Mozambique (A/HRC/26/28/Add.1), the Republic of Moldova (A/HRC/26/28/Add.2) and Guinea-Bissau (A/HRC/26/28/Add.3). These visits encompassed low-income, middle-income and high-income countries, as poverty and social exclusion exist in every country of the world.[2]

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[1] A list of the Special Rapporteur's activities is available here: http://www.ohchr.org/EN/Issues/Poverty/Pages/LatestActivities.aspx

[2] The Special Rapporteur has always worked on the premise that measures of poverty based solely on income do not capture the full, lived experience of poverty, which is a multidimensional phenomenon

7. During these visits, she has met with government ministers, civil society organizations, grass roots organizations and most importantly, with people living in poverty themselves. The Special Rapporteur has been able to engage in constructive dialogues with all the States concerned and she thanks them for their fruitful cooperation and engagement before, during and after her visits.

8. In 2012, the Special Rapporteur conducted an assessment of the impact of her country visit recommendations until that point, on the basis of information provided by States and other stakeholders (see report A/HRC/20/25). This exercise found that, despite challenges, several of her recommendations have been followed.

9. The mandate's recommendations on the importance of a human rights approach to social protection have been well received by many developing countries and in some cases have translated into improvements in social protection programs in terms of design, implementation or budgetary allocation. For example, since her visit to **Zambia** in 2009 (see report A/HRC/14/31/Add.1) the Government adopted the Sixth National Development Plan (SNDP), which proposed a significant scaling-up of the country's social protection programs in the period 2011-2015, including the expansion of the social cash transfer schemes. This was one of the Special Rapporteur's main recommendations during and after her visit.

10. In **Timor-Leste**, which she visited in November 2011 (see report A/HRC/20/25/Add.1), the end-of-mission statement received national media attention and was debated in the national parliament, particularly in the context of the 2012 state budget.[3] The Special Rapporteur had called for increased public expenditure on social services, citing concern about the steady decrease in the percentage of public expenditures to social services, such as education and health, as well as agriculture. At the time of the statement, the projected 2012 state budget of $1.8 million had 6.3 percent going to education, less than 3 percent to health and about 1 percent to agriculture (compared to nearly 50 percent to infrastructure). Eventually, the 2012 budget was adopted with the final result as follows: health (46.9 percent), education (35.1 percent) and agriculture and fisheries (20.7 percent). While this dramatic shift of course cannot be attributed solely to her mission and recommendations, the UN Mission in Timor-Leste (UNMIT) noted positively that the mission contributed to this end.

11. The establishment of an income tax was one of the Special Rapporteur's main recommendations during her visit to **Paraguay** in December 2011. She called for the entry into force of the income tax law, as well as for greater solidarity on the part of the population in moving towards a more equal society (see report A/HRC/20/25/Add.2). In July 2012, the income tax law was signed into law and it entered into force in August 2012.[4] During the interactive dialogue with States at the 21st session of the Human Rights Council (September 2012), Paraguay publicly acknowledged that the adoption of the income tax law was an implementation of the Special Rapporteur's recommendation.[5]

12. During country visits, the Special Rapporteur called on States to ratify or accede to specific international human rights instruments relating to the protection of persons in

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characterized by the sustained or chronic deprivation of resources, capabilities, choices, security and power.

[3] http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11618&LangID=E

[4] http://www.abc.com.py/edicion-impresa/politica/el-presidente-promulgo-ayer-la-ley-del-impuesto-a-la-renta-personal-429741.html

[5] See Paraguay statement of 12 September 2012, available at: https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/21stSession/OralStatements/18%20Paraguay.pdf

situations of extreme poverty. In several cases, States later complied with her call. For example, **Zambia** ratified the Convention on the Rights of Persons with Disabilities in 2010, while **Ecuador** (2010) acceded and **Ireland** (2012) signed the Optional Protocol to the ICESCR. Some countries also adopted specific laws that were recommended in country reports and in other cases the country visit sparked a debate about their adoption.

13. In her 2012 report, the Special Rapporteur also conducted a more general analysis of the challenges of following up on special procedures' country mission recommendations, given that there is no institutionalized mechanism at the international level through which the recommendations can be followed up, measured and assessed. Meanwhile, financial and human resource constraints prevent most mandate holders from engaging in repeat visits to States, or conducting systematic follow-up themselves. In her report, the Special Rapporteur made various recommendations for how follow up could be improved across the special procedures system, including the establishment of an institutionalized follow-up procedure by the Human Rights Council, and the establishment of national mechanisms by States to review progress, with the active engagement of NHRIs, UN agencies and civil society.

III. Thematic reports

14. Following her initial report presenting a conceptual framework for her work (A/63/274), the Special Rapporteur prepared nine thematic reports on a range of issues.[6] The Special Rapporteur has chosen the topics for her thematic reports in close consultation with other stakeholders, including civil society, and based on her observations and conversations with people living in poverty during her country visits. Through her reports and related advocacy, she hopes that she has been able to bring renewed clarity and focus on some issues, and push other issues forward for more mainstream consideration by States, UN agencies and civil society. Above all, her aim was to use her platform to shine a light on the experiences and challenges of people living in poverty - so often neglected in policy-making at all levels - and to advocate for laws, policies and practices that can better realize their human rights. In particular, she sought to include careful consideration of gender issues in all her reports, given that women are particularly vulnerable to poverty and experience particular challenges to escaping poverty. All of her reports were developed through rigorous research and consultation, including questionnaires directed to States and civil society organizations, responses to which can be found on the mandate's website.

15. Below, the main themes that she has worked on are summarized, alongside some of the key recommendations made by the Special Rapporteur. The final report, on the theme of fiscal and tax policies, is the one this text is added to and therefore not included in the summary below.

A. Social protection

16. Through consultations at the beginning of her mandate in 2008, it became clear that there existed a pressing need for an analysis of the human rights implications of, and approach to, social protection (social security) programs.[7] Therefore, the Special

[6] Not including the above-mentioned report assessing the impact of her country visits (A/HRC/20/25), or reports submitted in furtherance of the Guiding Principles on extreme poverty and human rights (A/HRC/21/39 and A/HRC/15/41)

[7] The ILO and other United Nations bodies use the term social security and social protection interchangeably to refer to the benefits in cash or in kind to secure protection in case of social risks

Rapporteur concentrated much of her efforts in the first few years of her mandate to elaborating and advocating a human rights approach to social protection.

17. Although social security systems have played an integral role in many States for decades, over recent years an increasing amount of money has been allocated by States, donor agencies, International Financial Institutions and even NGOs to the establishment and expansion of social protection systems around the world. For example, from 2000-2010 the World Bank lent USD 11.5 billion to scale up and start social protection schemes - in particular conditional cash transfer programs - around the world.

18. Social programs have been expanded in all regions, in particular in Latin America, South East Asia and Sub-Saharan African countries.[8] In some regions, the coverage of these programs is very significant: according to the Economic Commission for Latin America and the Caribbean (ECLAC), there are 25 million families in the region that receive cash transfers, benefiting more than 113 million people, representing 19 percent of the region's whole population. Many of these programs have proven benefits and have been quite effective in tackling poverty, improving access to essential services and even diminishing income inequality. Yet when the Special Rapporteur began her mandate in 2008, these programs had seldom been discussed or analyzed from a human rights perspective.

19. Certainly, social protection programs can assist States in fulfilling their obligations under international human rights law. In particular, they have the potential to ensure the enjoyment of minimum essential levels of economic, social and cultural rights such as the right to an adequate standard of living including food, clothing and housing, the right to education, the right to the highest attainable standard of health and the right to social security. However, the Special Rapporteur and other actors were concerned that if human rights norms and principles are not taken into account in the design, implementation and monitoring of these programs, they are rendered not only weak and unsustainable but they might ultimately undermine or even violate individuals' rights.

20. Accordingly, in the first few years of her mandate the Special Rapporteur presented four reports dealing with different elements of social protection. In 2009, she analyzed cash transfer programmes from a human rights perspective (A/HRC/11/9); while her report to the General Assembly (A/64/279) focused on social protection systems in the context of the global financial crisis. In 2010, she presented a report to the Human Rights Council on social pensions (A/HRC/14/31) and a report to the General Assembly on the importance of gender-sensitive social protection measures in achieving the Millennium Development Goals (A/65/259).

21. In 2012, the Special Rapporteur's work on social protection was collected and synthesized in a publication by the Finnish Ministry of Foreign Affairs, *A Human Rights Approach to Social Protection*.[9] Many of the Special Rapporteur's other thematic reports, as well as all her country reports, have also included consideration of social protection's crucial role in reducing poverty. The Special Rapporteur's recommendations have emphasized, *inter alia*, the need for social protection programs to include strong and

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and needs. In General Comment No. 19, the UN Committee on Economic, Social and Cultural Rights specified that the right to social security encompasses social insurance (contributory) and social assistance (non-contributory schemes).

[8] Social protection measures include cash transfer schemes, public work programs, school stipends, unemployment or disability benefits, social pensions, food vouchers and food transfers, user fee exemptions for health care or education and subsidised services.

[9] M. Sepúlveda and C. Nyst, *A Human Rights Approach to Social Protection*, Ministry of Foreign Affairs of Finland, 2012. Available at: http://www.ohchr.org/Documents/Issues/EPoverty/HumanRightsApproachToSocialProtection.pdf

accessible complaint and accountability mechanisms, prioritization of the participation of people living in poverty in the design and implementation of the programs, and ensuring that they contribute towards substantive equality and do not directly or indirectly discriminate against any individuals or group. She has been a strong advocate of the need for gender-sensitive social protection systems. In this regard, she has raised concerns about the human rights implications of certain eligibility criteria and targeting mechanisms commonly used in social protection programs. She has raised awareness about the gender implications of conditional cash transfer programmes, as conditionalities tend to increase the amount of unpaid care work that women have to undertake, and reinforce maternalistic stereotypes about women's domestic role. She has also urged States and donors to coordinate their various social protection programs, avoid fragmentation and move towards comprehensive social protection systems, including by complementing them with other poverty reduction measures and improved access to essential services.

22. The Special Rapporteur has continued to provide specific advice to governments on how to improve their social protection programmes and align them with human rights obligations through her country mission reports and subsequent dialogues. She has strived to influence States as well as some key organizations towards a rights-based approach to social protection. Particularly relevant in this regard has been her work with the Economic Commission for Latin America and the Caribbean (ECLAC), the World Bank and the International Labour Organization (ILO).

23. The work with ECLAC has proved to be very fruitful. ECLAC's position has evolved throughout their engagement with the Special Rapporteur and now incorporates the human rights approach to social protection more consistently. For example, in 2011 the sixth seminar on cash transfer programs, convened by ECLAC together with FAO and OHCHR, brought together policy makers from all over the region to discuss "Cash Transfers Programs from a Human Rights Perspective."[10] Most recently, the Special Rapporteur presented the human rights perspective on social protection at the international seminar on 'Public policies for equality: towards universal social protection systems,' convened by ECLAC and the Uruguayan Ministry of Social Development in Montevideo. She has also authored a report published in 2014 by ECLAC and the Norwegian Ministry of Foreign Affairs, assessing Latin American social protection policies from a human rights perspective.[11]

24. The most successful results of her dialogue with the World Bank - undertaken in conjunction with several other human rights actors- has been the incorporation of principles of transparency and accountability and a rights-based perspective in the Bank's social protection work.[12] Her engagement with the International Labour Organization has enabled her to feed into and influence the development of policy around the Social Protection Floor Initiative (SPF-I). For example, in coordination with a coalition of NGOs, her call[13] to States and other members of the ILO for an improved rights-based approach in the 2012

[10] The summary of proceedings is available at: http://www.rlc.fao.org/es/prioridades/seguridad/ingreso6/documentos/Presentaciones/memoria_conclusion/memoria_vi_seminario_ptc_v2.pdf

[11] "De la retórica a la práctica: el enfoque de derechos en la protección social en América Latina" available at: http://www.cepal.org/publicaciones/xml/9/52329/De_la_retorica_practica.pdf

[12] For example, see the opinion of the Chief Economist for the Human Development Network, Ariel Fiszbein, on "Rights, accountability and social programs" available at: http://blogs.worldbank.org/governance/rights-accountability-and-social-programs

[13] Available at http://www.ohchr.org/Documents/Issues/EPoverty/briefSPILO_Recommendation101.pdf

Recommendation on a Social Protection Floor was in most part incorporated in the text of the Recommendation, adopted in 2012 (Recommendation 202).[14]

25. In 2012, together with the Special Rapporteur on the right to food, the Special Rapporteur put forward a proposal for the establishment of a Global Fund for Social Protection, with the goal of overcoming financial obstacles and building international solidarity in order to fulfil the right to food and the right to social protection in developing countries, particularly those where the risks of drought and food price volatility are high.[15] The initiative was presented at the 39th plenary session of the Committee for World Food Security in October 2012 and at the Social Protection Inter-Agency Cooperation Board (SPIAC-B), as well as in various other fora. The proposal, supported by the European Parliament,[16] was among the key recommendations that emerged from global consultations led by the High-Level Panel of Eminent Persons on the Post-2015 Development Agenda,[17] and was included in the UN system's Technical Support Team issues brief on social protection in the SDGs.[18]

B. Economic crisis and austerity

26. At the 17th session of the Human Rights Council (June 2011), the Special Rapporteur submitted a report that set out the parameters of a human rights-based approach to recovery from the global economic and financial crises, with a particular focus on the most vulnerable and marginalized groups. The report urged States to see recovery from the crises as an opportunity for change, a chance to rectify deeply ingrained poverty and social exclusion, restore social cohesion and lay the foundations for more equitable, sustainable societies. It identified the human rights framework that States must comply with when designing recovery measures, analyzed a number of recovery measures from a human rights perspective and then recommended measures that States should consider taking to facilitate a human rights-based recovery from the crises. The recommendations included putting in place social protection floors for all, implementing socially responsible taxation policies, conducting human rights impact assessments, and increasing participation in policy-making and budgeting.

27. Given the on-going relevance of the issue after the submission of the report, the Special Rapporteur continued to monitor the impact of State responses to the economic crisis - particularly 'austerity' measures - on the human rights of the poorest and most vulnerable people. Austerity measures, which have become an increasingly dominant approach in response to the crises, are affecting the enjoyment of a broad spectrum of human rights. At a practical level, in many countries across the developing and developed world, changes to budgets, legal frameworks and social protection systems in the aftermath of the global financial and economic crises are threatening States' human rights obligations and are undermining the human rights of persons living in poverty.

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[14] http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_183326.pdf

[15] See *Underwriting the Poor: A Global Fund for Social Protection*, briefing note October 2012, available here: http://www.ohchr.org/Documents/Issues/Food/20121009_GFSP_en.pdf

[16] European Parliament resolution of 18 April 2013 on the impact of the financial and economic crisis on human rights, P7_TA(2013)0179, para. 26.

[17] A New Global Partnership: Eradicate Poverty and Transform Economies through Sustainable Development. Report of the High-Level Panel of Eminent Persons on the Post-2015 Development Agenda, May 2013, p. 60.

[18] http://sustainabledevelopment.un.org/content/documents/18320406tstissuesocprot.pdf

28. The Special Rapporteur has participated in several events and activities focused on the human rights impact of austerity, in order to highlight the need for alternative human rights-based approaches to recovery. These activities include speaking at public events and at consultations organized by OHCHR in Geneva and Tunisia. The Special Rapporteur has also developed communications (some of which are now publicly available) to various States on the subject of austerity measures after receiving relevant information through the channels used by the Human Rights Council special procedures.[19]

29. The Special Rapporteur's work on austerity measures was also referenced in the Resolution on "the impact of the financial and economic crisis on human rights" (March 2013) of the European Parliament.[20]

C. Penalization of poverty

30. At the 66th session of the General Assembly, in October 2011, the Special Rapporteur submitted a report concerning the penalization of people living in poverty (A/66/265). The report analyzed laws, regulations and practices that punish, segregate, control or undermine the autonomy of persons living in poverty, for example by prohibiting homeless persons from sleeping or eating in public spaces, by subjecting welfare recipients to surveillance or unnecessary conditionalities, or through excessive reliance on pre-trial detention. These practices have a grave impact on people living in poverty and are often explicitly discriminatory – criminalizing their livelihoods, interfering in their privacy and family life and threatening their liberty and personal security. Unfortunately, such measures have been adopted with increasing frequency over the past three decades, intensifying in recent years due to the economic and financial crises and now represent a serious threat to the enjoyment of human rights by persons living in poverty in many regions of the world.

31. The overall objective of the Special Rapporteur's work in this area has been to influence the agendas of intergovernmental bodies, especially those in the UN system, as well as States and civil society in general, in order to secure recognition of and response to the wide range of human rights concerns around the penalization of poverty. The report contains strong recommendations to States to end and prevent this practice, including reviewing requirements and conditionalities on welfare benefits to ensure that they do not violate human rights obligations, enacting comprehensive legislation to prohibit discrimination on the basis of socio-economic status, repealing laws that specifically target the particular behaviors and actions of people living in poverty and reviewing bail, detention and incarceration policies to ensure they do not disproportionately disadvantage people living in poverty.

32. The mandate has worked on raising awareness though press releases[21] and public statements[22] about the human rights impacts of penalization of poverty and has sent official communications to States when instances of penalization are alleged in order to modify States' responses and encourage public awareness about the penalization of poverty.[23] The

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[19] See http://www.ohchr.org/EN/Issues/Poverty/Pages/AllegationLetters.aspx

[20] Report on the impact of the financial and economic crisis on human rights (2012/2136(INI)), Committee on Foreign Affairs, Rapporteur: Inese Vaidere A7-0057/2013

[21] See press release about Hungary, at: http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=11829&LangID=E

[22] See, for example, 'USA: Moving away from the criminalization of homelessness, a step in the right direction', available at http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12079&LangID=E

[23] http://www.ohchr.org/EN/Issues/Poverty/Pages/AllegationLetters.aspx

Special Rapporteur has spoken in various forums about the penalization of poverty, including at universities, public events and at the UN. In February 2013, she spoke about the issue to a high-level conference on poverty, inequality and human rights organized by the Council of Europe, in partnership with the European Commission.[24]

33. The work so far has resulted in greater media coverage and public awareness of the penalization of poverty and its consequences in specific countries (e.g. Hungary, the United States of America and Australia). This work has also been crucial to promote the indivisibility of all human rights, and not to 'ghettoize' poverty issues as solely concerned with economic and social rights.

34. The work of the Special Rapporteur, partners and other advocates – in particular the National Law Center on Homeless and Poverty - contributed to the recognition by the US Department of Justice and Interagency Council on Homelessness that the criminalization of homelessness may violate international human rights law, including the ICCPR and the CAT.[25] In the recent review of the United States of America by the Human Rights Committee, the Committee explicitly noted that the criminalization of homelessness raises concerns of cruel, inhuman and degrading treatment.[26]

D. Access to justice

35. The Special Rapporteur's report to the 67th session of the General Assembly (A/67/278 - presented in November 2012) focused on access to justice. The exclusion of people living in poverty from the protection provided by the law denies them the opportunity to claim their rights and lift themselves out of poverty, trapping them in a vicious circle of impunity, poverty, powerlessness and injustice. The report analyzed the multitude of obstacles that persons living in poverty face in accessing justice, including fees and costs, limited access to information, lack of civil registration, geographical distance from police stations and courthouses, corruption, and excessive reliance on pre-trial detention. Considering that women are overrepresented among the poor and that States have agreed that access to justice by women is central to accelerate progress in the achievement of the MDGs in particular MDG 3, the report also highlighted the particular problems faced by women in seeking formal redress, including inadequate legal frameworks for dealing with gender-based crimes and social and cultural constraints which may prevent them from speaking out against abuses or seeking justice.[27]

36. The report aimed to influence the way States approach, design, implement, evaluate and monitor justice intervention and poverty reduction programmes, stressing the importance of solving the structural problems that prevent the most marginalized and vulnerable sectors of society from accessing justice or seeking remedy for the crimes, abuses and human rights violations they suffer. The report details several specific steps States can undertake to improve access to justice by people living in poverty, such as undertaking civil registration drives, expanding the geographical reach of the justice system, sensitization and training for justice providers and ensuring that free legal aid is

[24] http://europa.eu/citizens-2013/events/poverty-and-inequality-societies-human-rights-paradox-democracies-%E2%80%93-proposals-inclusive-socie

[25] See United States Interagency Council on Homelessness, *Searching Out Solutions: Constructive Alternatives to the Criminalization of Homelessness*, 2012

[26] CCPR/C/USA/CO/4

[27] See, for example, the outcome document of the High-level Plenary Meeting of the General Assembly on the Millennium Development Goals, resolution 65/1, October 2010.

provided in both civil and criminal cases where the rights and interests of persons living in poverty are at stake.

37. Since the publication of the report, the Special Rapporteur has worked with partners to ensure wide dissemination of the report amongst government agencies, development actors, UN bodies and NGOs, in order to raise awareness of the importance of solving these structural problems to ensure access to justice and remedies for the most marginalized and vulnerable sectors of society. In particular, she worked with the Ministry of Foreign Affairs of Finland to publish *Access to justice for people living in poverty: a human rights approach*.[28]

38. The Special Rapporteur spoke at CEDAW's day of general discussion on their forthcoming general recommendation on women's access to justice.[29] She also worked with the 'Panel on Human Dignity' (part of the 'Swiss Initiative' to mark the 60th anniversary of the Universal Declaration on Human Rights) in order to cement the place of access to justice for people living in poverty on their agenda, as a fundamental tool for human rights fulfillment and poverty reduction. She wrote two reports for the Panel, building on and expanding her General Assembly report.

39. In the approach to the 2015 deadline for the Millennium Development Goals, the Special Rapporteur built on this work by arguing for a specific goal, target and indicators on access to justice as part of the post-2015 sustainable development goals, in collaboration with NGOs including the Open Society Justice Initiative, the International Development Law Organization, and Namati.[30]

E. Participation

40. The Special Rapporteur's report (A/HRC/23/36) to the 23rd session of the Human Rights Council (June 2013) analysed the barriers that people living in poverty face to effective participation in public and political life, and proposed a human rights-based policy framework for more effective and meaningful inclusion.

41. Lack of power is a universal characteristic of poverty that manifests itself in many ways, at its core being the inability to participate in or influence decisions that profoundly affect one's life. Participation has been prominent in the development and poverty reduction discourse for some time, yet often participatory processes put in place by States, donors, international financial institutions, UN agencies or even NGOs are tokenistic, cursory consultations, conducted to give a veneer of legitimacy to an already-decided policy. People living in poverty face serious constraints in accessing decision-making forums or mechanisms, and exerting real influence through them, due to, *inter alia*, practical and financial impediments, stigma and discrimination, lack of information and hierarchies of power. This results in many decisions that are extremely pertinent for their lives being taken without their input – for example decisions about welfare benefits,

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[28] M. Sepúlveda and K. Donald, *Access to Justice for persons living in poverty: a human rights approach*, Ministry of Foreign Affairs of Finland, 2014. Available at: http://www.formin.finland.fi/public/default.aspx?contentid=298336&contentlan=2&culture=en-US

[29] Her presentation can be accessed at: http://www2.ohchr.org/english/bodies/cedaw/accesstojusticeKeynotePresentations2013.htm

[30] See the Special Rapporteur's briefing note at: http://www.ohchr.org/Documents/Issues/Poverty/LivingPoverty/AccessJusticePost2015.pdf ; and 'Justice 2015: Appeal to the Member States of the United Nations' http://www.opensocietyfoundations.org/publications/justice-2015-appeal-member-states-un-general-assembly

community water management, and local or national budgets–. This not only denies their dignity, agency and right to participate, but can also result in decisions and policies being less effective and responsive.

42. Thus, the Special Rapporteur sought to clarify how participation should be understood and realized from a human rights perspective. The report examined the key human rights principles and standards that determine the content of the right to participation and presented concrete recommendations to States and other key actors on how to operationalize this to ensure meaningful and empowering participation by the poorest and most marginalized members of society. For example, in order to comply with the principles of equality and non-discrimination, those designing and implementing participatory mechanisms must take into account the power dynamics at the societal and community level, and put in place strategies to ensure that those who are marginalized or discriminated against are enabled to participate meaningfully. To ensure that women living in poverty can actively participate, for example, in some circumstances it may be necessary to provide onsite childcare or create women-only spaces. The report recommended concrete measures States could take, such as providing funding for capacity-building in disadvantaged communities, undertaking an audit of barriers to participation, proactively making relevant data and information available in accessible formats, and involving people living in poverty in setting the agenda and goals for participatory and decision-making processes.

43. The report was developed in collaboration with ATD Fourth World, an organization with a long track record of working with people living in poverty, to respond to the lack of concrete guidance on how to facilitate meaningful participation of people living in poverty. Since publication of the report, its framework and recommendations for participation have been used in various local and national advocacy efforts, and the Special Rapporteur has presented its findings at several events and meetings.

F. Unpaid care work

44. The Special Rapporteur's report to the 68th session of the General Assembly (A/68/293), in 2013, examined the links between unpaid care work, poverty and women's rights enjoyment. The report outlined the impact of the gendered distribution of unpaid care work on women's poverty and human rights and clarified States' human rights obligations in this regard. Drawing from these obligations, the Special Rapporteur made recommendations for how States can recognize, value, reduce and redistribute unpaid care work through policies guided by human rights, including in the areas of labor legislation, social protection, public services, care services and infrastructure. In particular, the Special Rapporteur suggested three steps for State action, in order to ensure women's better enjoyment of human rights and tackle their vulnerability to poverty. Firstly, States should recognize and count women's unpaid care work and take it into account in policy-making, with time-use surveys a crucial tool in this regard. Secondly, States should invest greater resources in gender-sensitive public services and infrastructure, especially in disadvantaged areas, and examine how these could better support and redistribute care. Thirdly, States must adopt a 'care lens' in policy-making, to ensure social and economic policies across all areas are promoting the better sharing of care between women and men, in the short, medium and long-term. Tax codes, family leave legislation and social protection policies are all crucial levers in this regard – but currently, rather than incentivizing men's caregiving and women's paid work, they tend to reinforce gender stereotypes around women as caregivers and men as breadwinners.

45. The report has attracted much attention and support from women's rights advocates and development practitioners. The Special Rapporteur worked closely with UN Women in developing and disseminating the report, as well as with women's rights advocates and

development practitioners including ActionAid International, the Institute of Development Studies, and Oxfam GB. Several outreach activities were undertaken to disseminate the Special Rapporteur's report, including blogs,[31] media coverage,[32] op-eds[33] and video materials.[34] In addition, an e-discussion on "Unequal unpaid care work keeps rural women poor and violates their rights: how do we respond?" was held in October 2013, in partnership with UN Women's "Knowledge Gateway."[35]

46. The report has also been the basis for a strong and renewed effort to include the issue of unpaid care work in the post-2015 agenda / sustainable development goals (SDGs). Specifically, the Special Rapporteur has been arguing for a target and indicators on unpaid care work as part of a stand-alone goal on gender equality and women's rights, in coordination with organizations such as UN Women, ActionAid International and the Institute of Development Studies (IDS). She was invited by UN Women to speak about unpaid care work at a side-event on inequalities at the Eighth Session of the Open Working Group on the SDGs. At the 58th session of the Commission on the Status of Women in March 2014, the Special Rapporteur took part in many events focused on the issue, whose organizers and sponsors included the World Bank, UN Women, States, and civil society organizations. While at the CSW, the Special Rapporteur advocated for the inclusion in the SDGs of a target on recognizing, reducing and redistributing unpaid care work, as well as the inclusion of such issues in the CSW Agreed Conclusions.[36] Ultimately, the Agreed Conclusions did include unequivocal support for a stand-alone SDG on gender, incorporated important recognition of the impact of unpaid care work on development, women's rights and gender inequality and proposed policy measures in line with those recommended in the Special Rapporteur's report.[37] This important recognition is indicative of increased attention to, and momentum around, unpaid care work as a women's rights issue, in part due to the Special Rapporteur's report and advocacy.

G. Post-2015 development goals

47. Given the special relevance of the post-2015 development agenda to the human rights of persons living in extreme poverty, the Special Rapporteur has been urging States to ensure that the final framework is founded on and substantively informed by human rights law and principles.

48. The Special Rapporteur has conducted advocacy through a variety of channels for the meaningful inclusion of human rights in the post-2015 sustainable development goals (SDGs), working with various civil society partners. The Special Rapporteur also joined with other special procedures mandate holders in public statements on the topic of the post-2015 agenda. In May 2013, the Special Rapporteur together with 16 other mandates called on States to ground development priorities in human rights and focus on eliminating

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[31] See, for example: http://oxfamblogs.org/fp2p/whats-the-link-between-human-rights-and-cooking-cleaning-and-caring-and-why-does-it-matter/; and http://www.ids.ac.uk/news/recognising-unpaid-care-work-as-a-major-human-rights-issue

[32] http://www.theguardian.com/global-development/2013/oct/07/woman-job-unpaid-carers

[33] http://www.ipsnews.net/2014/03/op-ed-care-imperative/ and (in Spanish) http://elpais.com/elpais/2014/03/03/planeta_futuro/1393860722_635956.html

[34] See video at: http://www.youtube.com/watch?v=VVW858gQHoE

[35] http://www.empowerwomen.org/circles/unpaid-care-work-and-rural-women

[36] http://www.ohchr.org/Documents/Issues/Poverty/UCWPost2015Agenda.pdf

[37] See http://www.unwomen.org/~/media/Headquarters/Attachments/Sections/CSW/58/CSW58-agreedconclusions-advanceduneditedversion.pdf

inequalities, improving social protection, and ensuring accountability.[38] In September 2013, she issued a statement jointly with another 16 other mandate holders, which addressed the General Assembly's Special Event on the Achievement of MDGs and the Post-2015 Development Agenda.[39]

49. As well as promoting the general need for the goals to be founded on human rights obligations and focused on the rights and needs of the poorest and most disadvantaged people, she has concentrated her advocacy around three issues: social protection,[40] access to justice,[41] and unpaid care work (further details on these efforts are included above in the relevant thematic sections).[42] The mandate has facilitated and catalyzed collaboration among several intergovernmental and civil society organizations to promote the inclusion of these specific topics in the SDGs and developed and disseminated briefing papers explaining the importance of including each of these issues in the SDGs and suggesting relevant targets and indicators. The briefing papers have been disseminated widely through the OHCHR website, direct letters to member States as well as media outreach.[43]

50. The Special Rapporteur also undertook bilateral meetings with key actors and spoke at high-level public events and meetings on the post-2015 agenda. These events include side-events at the Open Working Group meetings in New York, and the Human Rights Council in Geneva.

51. The final formulation of the SDGs will not be clear until 2015, but the Special Rapporteur feels that her efforts and those of other human rights advocates have had an important impact so far, in highlighting the need for certain issues to be included and the need for a strategic shift from the content and approach of the MDGs. At the General Assembly in 2013, UN Member States recognized that human rights must be at the core of the global development agenda. Many of the key messages advanced in the work of the Special Rapporteur regarding human rights accountability, inequality, access to justice and social protection were reflected in the Secretary General's report and recommendations to the GA, as well as in the subsequent outcomes of the Open Working Group sessions.

IV. Examination of specific allegations of human rights violations

52. During the Special Rapporteur's term, the mandate on extreme poverty and human rights began receiving and responding to information concerning specific cases of alleged human rights violations.[44] Within the resources that are available to her, the Special Rapporteur has endeavoured to act on all submissions by sending communications (urgent appeals and letters of allegations) when receiving well-documented information on alleged violations of the rights of people living in poverty. In most cases, she has acted jointly with other mandate holders whose mandates are relevant to the cases concerned.

[38] http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=13805&LangID=E

[39] http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=13845&LangID=E

[40] See for example the joint submission with the Special Rapporteur on the right to food: http://www.ilo.org/wcmsp5/groups/public/---dgreports/---nylo/documents/genericdocument/wcms_227152.pdf

[41] Examples of the outcome of this work includes reports and videos such as: http://www.asf.be/wp-content/uploads/2013/03/Access-to-justice-and-poverty-reduction.pdf; http://www.youtube.com/watch?v=cQB3F17jjoY; http://www.namati.org/entry/incorporating-justice-in-the-post-2015-development-framework/

[42] http://www.ohchr.org/Documents/Issues/Poverty/UCWPost2015Agenda.pdf

[43] Available on the mandate's website: http://www.ohchr.org/EN/Issues/Poverty/Pages/Post2015Development.aspx

[44] http://www.ohchr.org/EN/Issues/Poverty/Pages/Individualcomplaints.aspx

53. Full copies of letters sent and replies received are contained in the Joint Communications Report of Special Procedures mandate holders submitted periodically to the Human Rights Council.[45] The Special Rapporteur has also compiled the cases acted upon by her mandate in a document publicly available on the mandate's website.[46] From 2011 to November 2013, the Special Rapporteur dealt with a total of 28 cases in the following countries (in alphabetical order): Australia, Bangladesh, Brazil, Colombia, Hungary, India, Ireland, Israel, Nepal, Nigeria, Peru, Philippines, Portugal, Republic of Korea, Spain, the United Kingdom of Great Britain and Northern Ireland, and the United States of America.[47] In some urgent cases where it was felt that media attention could aid in making progress towards resolution, prevention or redress (and the State concerned had already had an opportunity to respond to the allegations), the Special Rapporteur has issued press releases jointly with other mandate holders regarding these situations.

54. 61 percent of these allegation letters have received responses from States. The communications sent have in many cases resulted in constructive dialogue, and have also provided a basis for renewed advocacy and awareness-raising at the national level.[48] However, the Special Rapporteur would like to note her concern that some States frequently or habitually do not respond to her communications or those from other special procedures. Constructive dialogue between States and special procedures and full clarification of the facts is in the interests of all parties concerned.

55. In cases where the alleged violation involves a business enterprise, letters have been sent not only to the State where the alleged violation(s) have taken place, but also to the State where the business enterprise is domiciled, as well as to the business enterprise itself.

V. Clarification of international standards: the Guiding Principles on extreme poverty and human rights

56. In 2009, the Special Rapporteur was requested by the Human Rights Council to assist in concluding the drafting process of the United Nations Guiding Principles on Extreme Poverty and Human Rights, which had been initiated by States in 2001.[49] After a broad consultation process with States, academic experts, NGOs and human rights and development practitioners, in September 2012 she presented a final draft of the Guiding Principles, which were subsequently adopted by the HRC by consensus in resolution 21/11, of 27 September 2012. On 20 December 2012, the UN General Assembly adopted a resolution on human rights and extreme poverty where it "Takes note with appreciation of the guiding principles on extreme poverty and human rights, adopted by the Human Rights Council in its resolution 21/11 as a useful tool for States in the formulation and implementation of poverty reduction and eradication policies, as appropriate." (A/RES/67/164, paragraph 17).

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[45] Available at: http://www.ohchr.org/EN/HRBodies/SP/Pages/CommunicationsreportsSP.aspx

[46] http://www.ohchr.org/EN/Issues/Poverty/Pages/AllegationLetters.aspx

[47] Some of these countries received more than one letter. Allegation letters sent after November 2013 are not public at the time of writing and therefore not included in the summary above.

[48] See for example 'Rights group calls on India, South Korea to suspend POSCO-India steel project and address human rights concerns', January 2014, available at: http://www.escr-net.org/sites/default/files/Press%20release%20Rights%20Group%20Calls%20on%20India%2C%20South%20Korea%20to%20Suspend%20POSCO-India%20Steel%20Project.pdf and 'Nigeria: UN raises question over poor electricity', March 2014, available at: http://www.worldstagegroup.com/worldstagenew/index.php?active=news&newscid=14313&catid=26

[49] For an overview of the history of the Guiding Principles, see A/HRC/21/39, Annex.

57. The Guiding Principles provide State-adopted global policy guidelines applying States' human rights obligations to the specific situation of people living in poverty. The Principles respond to the significant social, cultural, economic and structural obstacles that people living in poverty face, which prevent them from enjoying their rights and put them at increased risk of discrimination, stigma, violence, ill health and lack of education, further entrenching and exacerbating the cycle of poverty through successive generations. Based on international human rights norms and standards, the Principles should serve as a practical tool for policy-makers to ensure that public policies (including poverty eradication efforts) serve the poorest members of society and respect and uphold all their rights.

58. The challenge since their adoption has been to ensure awareness and implementation. Since the Guiding Principles were adopted, the Special Rapporteur secured funds for the publication of more than 1,000 copies of the Guiding Principles in a more reader-friendly format in Arabic,[50] English,[51] French[52] and Spanish.[53] In addition, the report has been translated into a number of non-UN languages such as Italian, Polish and Portuguese.[54]

59. The Guiding Principles in various languages are now disseminated as a core "Reference Material" of the OHCHR and hard copy versions have been disseminated widely in several meetings around the world (from Montevideo, Uruguay to New York).[55]

60. The Special Rapporteur and her team have also disseminated them through the media, side-events, and targeted bilateral advocacy (for example with the World Bank and UNDP). She has written articles for several academic publications and engaged with UNDP, OHCHR and other relevant actors to ensure that the Guiding Principles are used as an important guide in the formulation of the SDGs, as they enshrine progressive language linking poverty eradication, development and human rights obligations. Gradually, the Guiding Principles are becoming more widely known.[56] For example, they have been mentioned in the case law of the European Committee of Social Rights.[57]

VI. Cross-fertilization and advocacy with human rights mechanisms and intergovernmental bodies

61. First and foremost, the Special Rapporteur has maintained a close and mutually beneficial relationship with the **Office of the High Commissioner for Human Rights** (OHCHR), both in Geneva and at its various regional offices.

62. The Special Rapporteur has endeavoured to ensure that the work of her mandate is coordinated with that of other special procedures and the UN treaty bodies. She has regularly worked in collaboration with other mandate holders, in elaborating

[50] http://www.ohchr.org/Documents/Publications/OHCHR_ExtremePovertyandHumanRights_AR.pdf
[51] http://www.ohchr.org/Documents/Publications/OHCHR_ExtremePovertyandHumanRights_EN.pdf
[52] http://www.ohchr.org/Documents/Publications/OHCHR_ExtremePovertyandHumanRights_FR.pdf
[53] http://www.ohchr.org/Documents/Publications/OHCHR_ExtremePovertyandHumanRights_SP.pdf
[54] All translations are available at http://www.ohchr.org/EN/Issues/Poverty/Pages/DGPIntroduction.aspx
[55] http://www.ohchr.org/EN/PublicationsResources/Pages/ReferenceMaterial.aspx
[56] See for example *Cosmopolis* 2013-4 (http://www.cosmopolis-rev.org/2013-4) and *El Futuro es Hoy: Construyendo una Agenda de Derechos Humanos,* Human Rights Commission of Nuevo Leon.
[57] For example, the Guiding principles were mentioned in the ECSR decision on the merits concerning the complaint No. 69/2011 – Defence for Children International (DCI) v. Belgium (§81). Available at: http://www.coe.int/T/DGHL/Monitoring/SocialCharter/Complaints/CC69Merits_en.pdf

communications, press releases, public statements and in making policy proposals. She has endeavoured to refer to and incorporate other mandate holders' work in her reports and other materials, and has sought their input wherever possible. She extends her sincere thanks to her fellow mandate holders for their collaboration and support, and for the opportunities they have given her to contribute to their work also.

63. The Special Rapporteur made a presentation at the CEDAW Committee's day of general discussion on women's access to justice and she has presented the Guiding Principles on extreme poverty and human rights to treaty bodies including the CESCR. She has endeavoured to ensure coordination and synergy between her mandate's recommendations and findings and those of the treaty bodies, for example including their jurisprudence, general comments and conclusions in her reports. Through her country reports and related advocacy, she has consistently urged States to ratify all international human rights treaties and she has been particularly active in promoting ratification of the Optional Protocol to the ICESCR, which finally came into force in May 2013. As she expressed in her report of 2012 analysing follow-up to country visits (A/HRC/20/25), the Special Rapporteur believes that increasing synergies between special procedures and treaty bodies is a crucial task, and requires strengthened collaboration and information-sharing within OHCHR.

64. As described above, the Special Rapporteur has developed a collaborative relationship with the **Economic Commission for Latin America and the Caribbean** (ECLAC) on issues of social protection, regularly participating in relevant meetings.

65. Since the beginning of her mandate, the Special Rapporteur has striven to influence the work of the **World Bank**, pushing for a rights-based approach to social protection and access to justice, as noted above. She made annual visits to the World Bank offices in Washington D.C., meeting with various senior economists, the Nordic Trust Fund, and the Social Protection team. In October 2013 she met with several members of the World Bank board of directors to advocate for better inclusion and recognition of human rights norms and standards in World Bank programing and safeguards and has engaged in follow-up since that meeting to make specific recommendations.

66. Throughout her term as mandate holder, the Special Rapporteur has worked with **UN agencies** to ensure that the human rights approach to poverty reduction is kept on the agenda, particularly with respect to development and the post-2015 development framework. She has maintained regular contact with partners at **UNDP** and this collaboration has proved mutually beneficial on various topics, including social protection and access to justice. In order to build on and enhance the gender focus of the mandate, in recent years the Special Rapporteur engaged increasingly with **UN Women**. Most recently this collaboration has taken concrete shape on the issue of unpaid care work, as described above.

67. She has also engaged with the **European Union** institutions and the **Council of Europe**. She made a submission to the European Union Public Consultation on Social Protection in EU Development Cooperation and has held meetings with members of the European Parliament and some of its Sub- Committees, including discussing the Guiding Principles on extreme poverty and human rights, and the human rights impacts of austerity. As mentioned above, the Special Rapporteur's work has been referenced in a resolution of the European Parliament.[58] She was a keynote speaker at a conference on poverty and

[58] Report on the impact of the financial and economic crisis on human rights (2012/2136(INI)), Committee on Foreign Affairs, Rapporteur: Inese Vaidere A7-0057/2013

inequality organized by the Council of Europe and has met with various Council of Europe officials, as well as the President of the European Committee of Social Rights.

VII. Conclusion

68. **The Special Rapporteur has approached her mandate with the view that the most important part of her role is to advice the UN Human Rights Council and States, and to do so also by giving a voice to those who so often are ignored by governments and by the international community. By listening to and collaborating with people living in poverty, those campaigning in grassroots organizations, and other members of civil society, she hopes that she has been able to provide a platform for their experiences and concerns, and to publicize and clarify the obligations States have to respect, protect and fulfill their human rights.**